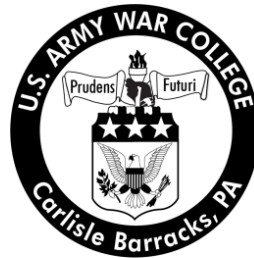


## Force Multiplier: The Military's Future Role in U.S. Border Protection

by

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Class of 2013

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## **Abstract**

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The 9/11 terrorist attacks on the United States changed forever the nation's view on domestic security. Americans were given a sullen reminder that possessing the world's most powerful military force and being the benefactor of two oceans as buffers from more than 90 percent of the world's population did not render the homeland immune to terrorist attacks. A new term and a revised national security strategy came of age: Homeland security emerged as the national effort to prevent terrorist attacks within the United States, to reduce our vulnerability to these attacks, and to minimize the damage from these attacks should they occur. Particular attention was placed on securing the nation's borders; the U. S. Customs and Border Protection Service was designated the lead agency. But critics continue to ask whether the federal government is using its resources in the most efficient and effective manner to protect its borders. This research project seeks to answer this question by considering whether the Department of Defense should assume a larger role in the protection of the nation's borders and identify potential ramifications of this change in the national security strategy.





## **Force Multiplier: The Military's Future Role in U.S. Border Protection**

This research project considers the potential benefits and drawbacks of the Department of Defense (DOD) assuming an increased role in U.S. border security. The use of military personnel in support of civilian law enforcement authorities has an extensive and controversial past, dating back to the post-Revolutionary War era. The controversy intensified during the Reconstruction Era when legislation was enacted that limited the use of federal military personnel in support of law enforcement activities. In today's volatile, complex, uncertain, and ambiguous security environment, determining what constitutes internal and external threats and subsequently employing the appropriate national resources to counter these threats is a difficult undertaking.

The Department of Homeland Security (DHS) is the lead federal agency responsible for deterring and preventing illegal border activities including but not limited to illegal entry of persons and goods, smuggling drugs and humans, and infiltration of terrorists.<sup>1</sup> This undertaking has resulted in a steady increase in the DHS budget while the nation faces fiscal challenges the magnitude of which some claim have not been encountered since the Great Depression.<sup>2</sup> Other government agencies, including DOD, have been relegated to supporting roles in the homeland security strategy.

### **Problem Statement**

The United States is challenged to protect its borders from national security threats while assuring the free flow of goods and services across its land borders. Despite unprecedented allocations of resources to U.S. land borders, they remain vulnerable to infiltration from persons with varying degrees of criminal intent. This challenge raises the question of whether current national resources are being expended in the most effective manner to counter national security threats at its land borders.

## Research Questions

The primary research question is: Should DOD assume an expanded role in border protection operations? Secondary research questions are:

1. What inadequacies currently weaken the U. S. border security strategy?
2. What are the constraints regarding the use of the military in support of law enforcement operations, and are such constraints relevant in the current security environment?
3. What military capabilities could improve border security?
4. What are the inherent challenges involved in the military assuming a greater role in support of border protection operations?

## Assumptions

A common assumption held by some government officials and the general public is that the Posse Comitatus Act (PCA) prevents or at least severely limits the DOD from conducting law enforcement activities. This research project describes the actual parameters of the PCA and analyzes the controversy surrounding it.

A second assumption that has recently surfaced is that the most dangerous threat to national security comes across the Mexican border.<sup>3</sup> Transnational Criminal Organizations (TCOs) that use the Mexican border as a gateway to illegal activity in the United States along with individuals' successful infiltrations of the 2,000-mile U.S.-Mexico border lend credibility to this assumption. Although the majority of individuals who illegally enter the United States from the Mexican border and, likewise, the Canadian border pose no direct threat to national security, vulnerabilities along both land borders could enable more sinister individuals to carrying out terrorist attacks on U.S. soil.<sup>4</sup>

## Limitations

This research project focuses narrowly on current land border protection strategies to determine the necessity and feasibility of a greater use of military capabilities in support of border protection operations. Other domestic military duties, such as responses to natural disasters and missile defense operations, are beyond the scope of this research project.

## Significance of Study

The 2010 Quadrennial Homeland Security Review cites five core DHS missions.<sup>5</sup> Prevention of terrorism in the United States is designated as its first mission and is regarded as the foundation of homeland security. Securing and managing U.S. borders is then designated as a separate mission.<sup>6</sup> Arguably, this second mission, the security and management of the borders, is a vital component of the first—not a separate mission in itself.<sup>7</sup>

### Analysis of U.S. Border Security Operations and Strategy

#### A Historical Background of U.S. Border Security

U.S. border security strategy has evolved significantly since the nation's founding. In *The Three U.S.-Mexico Wars*, Tony Payan portrays that evolution as taking place in three discrete eras: the customs phase, the law enforcement phase, and the current national security phase. The customs era commenced as a result of three major occurrences: the decade-long Mexican Revolution of 1910, the U.S. rise as a world economic power, and the anti-immigration movement of the early 20<sup>th</sup> century. The first two events set conditions for an influx of immigrants crossing the Mexican border in search of prosperity in the United States. During this era, customs officers

sought to restrict the movement of illegal immigrants and goods from the Mexican border at U.S. ports of entry<sup>8</sup>.

The law enforcement era began in the 1970s with the Nixon administration, then continued under the Reagan administration. This era was not launched by a single event; rather it reflected a U.S. political challenge to bring law and order to the Mexican border.<sup>9</sup> Law enforcement officials sought to reduce the number of undocumented immigrants living in the United States and diminish the unprecedented level of drug smuggling activity across the Mexican border. U.S. counter-drug activities in the early 1980s hindered the Columbian cartels' ability to smuggle cocaine into the United States via the Caribbean. In response, the Columbian cartels exploited a well-established Mexican criminal infrastructure by allying with Mexican cartels to smuggle historic quantities of marijuana, heroin, and cocaine across the Mexican border into the United States.<sup>10</sup>

The current national security era began as a direct result of the 9/11 terrorist attacks. The Bush administration recognized the need to implement advanced levels of protection at the nation's borders in order to strengthen the overall domestic security plan.<sup>11</sup> The newly formed DHS organized border security measures to apprehend terrorists attempting to enter the United States, to integrate intelligence sources to diminish TCO capabilities, and to prevent the transport of contraband to and from the United States.<sup>12</sup> DHS is now challenged to manage the sheer volume of legitimate people, goods, and services crossing the borders daily while preventing individuals and organizations with malicious intent from entering the United States.

## Northern and Southwestern Border Attributes

### Northern Border Region

Approximately 5,200 miles in length, the U.S.-Canadian border is the world's longest border shared between two countries.<sup>13</sup> The border terrain consists of dense forests and open plains; it crosses sparsely populated federal, state, and tribal lands.<sup>14</sup> The northern border has no man-made barriers to restrict crossing, yet the U.S. Customs and Border Patrol Service (CBP) claims that known terrorist affiliates and extremist groups have an undisputed presence along the border in both the United States and Canada.<sup>15</sup>

Historically, the northern border yields significantly lower numbers of illegal incursions than the southwest border, although illegal immigration and smuggling activity occurs regularly.<sup>16</sup> Marijuana and methylenedioxymethamphetamine (MDMA, commonly known as Ecstasy) are the primary illegal drugs smuggled across the northern border into the United States.

In 2011, President Obama and Canadian Prime Minister Harper released a joint border strategy titled "Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness." The strategy relies on a risk management approach in which joint measures and shared technology counter threats shared between the two nations. This approach is designed to accelerate legitimate flows of people and goods across the border while enhancing the physical security of both countries.<sup>17</sup> In addition, the plan acknowledges the vital role of law enforcement and military personnel in this venture. However, border patrol agents assigned to the northern border comprise only 10 percent of the Agency's manpower nationwide.<sup>18</sup>

The U.S. *2012 Northern Border Strategy* reflects higher level guidance of other

border mandates, such as those included in the *2010 National Security Strategy* and the above-mentioned *2011 Beyond the Border Action Plan*. The Northern Border Strategy cites the potential for terrorists or violent extremists to gain entry across the border as its single greatest security threat along the northern border.<sup>19</sup> In 2011, former U.S. Customs and Border Patrol (CBP) Commissioner Alan Bersin stated that CBP recorded more cases of people with suspected terrorist backgrounds or links to terrorist organizations entering the United States from Canada than from Mexico.<sup>20</sup>

#### Southwestern Border Region

Spanning approximately 2,000 miles, the southwest border has assumed an even greater significance in national security since the 9/11 terrorist attacks. This border provides a nexus of three transnational threats: drug trafficking, smuggling aliens, and terrorism. The most common threats at the southwest border are smuggling contraband and human trafficking. In addition to the 33 legitimate crossing points, the border includes hundreds of miles of open desert, rugged mountains, the Rio Grande River, and coastal waters. Its varied terrain provides an ideal environment for cross-border criminal activity. Drug and human traffickers exploit the border in two directions: smuggling drugs and people from Mexico into the United States and transporting billions of dollars in currency and weapons from the United States into Mexico.<sup>21</sup>

In a recent U.S. Government Accountability Office (GAO) report, DOD officials expressed concerns about the lack of a comprehensive southwestern border security policy.<sup>22</sup> Although national policies found in the *2011 Southwestern Border Counternarcotics Strategy* and the *2012 U.S. Border Patrol National Strategy* cite various threats along the border, these strategies fall well short of northern border

strategies in directing cooperation shared among the United States and its neighboring countries. For example, a prominent component of the *Beyond the Border Action Plan* is the joint border effort between Canadian and U.S. agencies. In contrast, southwestern border strategies focus more on measures taken by the United States than those taken by Mexican officials.

### National Security Threats along U.S. Land Borders

With a combined length of more than 7,000 miles, both U.S. land borders possess attributes that are advantageous to illegal entry into the United States. This section focuses on certain entities that could exploit or currently utilize U.S. land borders to conduct activity that threatens national security.

#### Terrorists Access to U.S. Land Borders

In a 2012 House of Representatives Homeland Security Committee hearing, DHS Secretary Janet Napolitano was asked if there is credible evidence of a terrorist presence along the Mexican border. Napolitano replied,

...from time to time, and we are constantly working against different and evolving threats involving various terrorist groups and various ways they may seek to enter the country.<sup>23</sup>

While Napolitano's comments indicate that U.S. officials manage external terrorist threats, she does not offer any specific quantification of these threats.

Because of its proximity to the United States, its porous borders, and its dependency on U.S. commerce and tourism, Mexico may serve as a transit route for foreign terrorist operations.<sup>24</sup> Of particular concern is the Hezbollah terrorist organization, with its global presence that includes North and South America.<sup>25</sup> The recent arrests of individuals in Mexico with alleged ties to Hezbollah calls into question whether this organization has plans to cross the southwest border in order to conduct

terrorist activities in the United States.<sup>26</sup> Additionally, in 2011 CBP apprehended 255 individuals from countries with alleged ties to terrorist activity, demonstrating the potential for foreign terrorists to utilize the southwest border to gain entry into the United States.<sup>27</sup>

In the past decade, Canadian authorities have worked in collaboration with their U.S. counterparts to mitigate terrorist threats on both sides of the northern border. Nonetheless, some security experts still view Canada as a safe haven for terrorist activity. Lavale Berry contends that Canada maintains the most generous asylum system of any country in the world. Further, its advanced economy provides opportunities for terrorist groups to conduct fundraising activities through counterfeit companies.<sup>28</sup>

One factor that may exceed all others in creating conditions for terrorists to enter the United States is the large amount of people, goods, and services that cross both borders daily. The 1994 North American Free Trade Agreement (NAFTA), promoted the expansion of free trade between Canada, the United States, and Mexico. The most recent available estimates indicate trade among the three countries totaled \$1.6 trillion in 2009.<sup>29</sup> Balancing the implementation of security procedures while managing the flow of legitimate trade between the countries is a challenging task.

### Transnational Organized Crime

The national security threat posed by transnational organized crime (TOC) is not just a matter of protecting the borders. Indeed the factors that enable this criminal activity to thrive go beyond the scope of this research. However, understanding the methods by which U.S. borders are utilized by criminal enterprises—ranging from drug trafficking to human smuggling and weapons trafficking—is crucial to developing an



effective border protection strategy. Add to these our leaders' growing concerns over an evolving nexus between TOC and terrorist groups, and the complexity and magnitude of the threat becomes more evident.

In "The Crime Terror Nexus: Transformation, Alliance, Convergence," Peng Wang describes the crime-terror nexus as two independent, but related, components that evolved in part due to the post-9/11 crackdown on terrorism financing sources.<sup>30</sup> The first component is criminal activity conducted by terrorist organizations to generate funding. The second component is the link between established criminal organizations and terrorist groups. Wang contends the two components appear to be adopting each other's tactics and strategies and frequently partner with each other to threaten the security of the United States and other nations.<sup>31</sup> Both terrorist groups and organized criminal organizations rely on extreme violence, secret operations, and defiance of governments and law. They also share a predilection for back-up leaders and foot soldiers.<sup>32</sup>

Over the past 20 years, the federal government has hired an additional 17,000 border patrol agents and increased the allocation of surveillance equipment, particularly along the southwest border.<sup>33</sup> Despite this increase of resources, transnational criminal organizations (TCO) have adapted by modifying or changing tactics. Their organizational livelihood depends on smuggling drugs and humans into the United States and smuggling money and firearms into Mexico. The Texas Coalition Board contends:

The cartels are mature organizations...They are richly informed about the environment in which they conduct their criminal operations and are highly skilled at evaluating risk and executing strategic and tactical operations...<sup>34</sup>

Other public and non-governmental reports regarding violence and illicit trafficking along U.S. borders provide contradictory evidence. Some suggest that border crime is on the rise, while others offer evidence that criminal activity along the border is on the decline. However, statistics alone do not tell the whole story: Security is more than just a strategy, it is also perception. Tom Berry suggests:

Proximity to the border has been the source of a new politic of indignation, outrage and resentment as deepening concerns about spillover violence, public safety threats and immigration flows have produced a sense of vulnerability and stirred deep resentment.<sup>35</sup>

#### U.S. Border Protection Today

Between 2005 and 2010, illegal entry apprehensions in the United States decreased by more than 60 percent. Factors that probably contributed to the drop in apprehensions are border enforcement efforts and a declining U.S. economy.<sup>36</sup> President Obama's 2013 Budget Request includes funding for the largest deployment of resources to the borders in the nation's history: 21,370 Border Patrol agents, approximately 1,200 Air and Marine agents, and 21,186 Customs officers. These agents work in conjunction with intergovernmental law enforcement agencies to target illicit networks. Further, CBP has deployed additional technology assets along the borders, including mobile surveillance units, thermal imaging systems, and non-intrusive inspection equipment.<sup>37</sup> In 2011, CBP seized approximately \$126 million in illegal currency and nearly five million pounds of narcotics nationwide. According to the *2010 FBI Crime Report*, violent crime in southwest border states decreased by an average of 40 percent in the last two decades.<sup>38</sup> In contrast, revenue obtained from illegal drug trafficking across the southwest border alone is estimated to be between \$18-39 billion annually. So, despite the unprecedented amount of resources applied to border

protection, illegal drug smuggling across U.S. borders remains a lucrative business. Moreover, the number of illegal entry apprehensions and the amount of contraband seized indicates who and what are being seized at the borders, but not the amount of people and contraband that has crossed the borders undetected. Berry also contends that tracking border security progress has taken on a “heads you win, tails you win” outcome regardless of whether apprehensions increase or decrease over time.<sup>39</sup>

Separate studies conducted by the University of California, San Diego (UCSD) and Princeton University sought to estimate the probability of apprehending individuals attempting to enter the United States illegally. Both studies indicate the majority of migrants who attempt to enter the United States illegally eventually succeed, though many are apprehended one or more times prior to their successful entry.<sup>40</sup> According to the UCSD data, a growing proportion of individuals attempting to migrate illegally across the southwest border are apprehended at least once.<sup>41</sup> The Princeton data estimates that the probability of being apprehended on any given crossing in 2011 was approximately 20 percent. Taken together, the data indicates that while it has become more difficult to cross the southwest border illegally in the past 20 years, the border remains generally vulnerable to illegal crossers.<sup>42</sup>

#### Variable Scale of Border Protection

Terms often associated and used interchangeably with regards to border security are: control, protection, and enforcement. This range of border jargon can be attributed to both the past modifications of U.S. border strategy and the various organizations that have assumed responsibility for preserving national sovereignty at the borders. Establishing an enduring border strategy requires

credible assessments of evolving border threats and appropriate allocation of resources to counter these threats.

In “New Requirements for a New Challenge: The Military’s Role in Border Security,” Bert Tussing proposes “A solution to the evolving dilemma will begin with the realization that the border challenge must be addressed as a problem that varies with the introduction of a variable threat.”<sup>43</sup> Tussing’s *Variable Threat Scale* designates separate approaches to three border threat levels: *Border Control* addresses the illegal entry of people and goods, *Border Safety* guards against crime and violence, and *Border Security* offers protection against terrorism. Tussing suggests that “the application of a variable threat scale could enhance the development of a national border security strategy that is feasible, affordable, and acceptable to the American people.”

This variable threat approach raises the question of whether the current strategy provides the appropriate depth and flexibility to secure the borders in the foreseeable future. Specifically, should the same agency responsible for preventing the illegal entry of people and contraband into the United States also bear the preponderance of the responsibility for countering entities that pose the greatest threats to national security?

### Analysis of Civil-Military Relations

#### Posse Comitatus Act

The Posse Comitatus Act (PCA) is a federal law that establishes parameters for the utilization of federal military personnel in law enforcement activities.<sup>44</sup> Because it was originally enacted in 1878, some suggest the law is a product of Reconstruction Era

politics. Its initial intent is often misconstrued, which unduly hampers the military's ability to provide support to domestic crises.<sup>45</sup> Fueling the controversy, others fear that the use of the armed forces in any law enforcement capacity will undermine civilian control of the military and infringe upon individual freedoms.<sup>46</sup>

Despite a popular misconception, the PCA does not prohibit the use of military resources in support of border protection operations or other law enforcement activities when this utilization is considered appropriate.<sup>47</sup> In fact, Presidents George W. Bush and Barack Obama used their authority on several occasions to deploy military personnel and equipment along the southwestern border to execute U.S. laws. John Brinkerhoff suggests that the controversy surrounding and misperception of the PCA may be attributed to Americans' general opposition to the use of troops in a law enforcement capacity. He also suggests that military leaders' misconceptions of the PCA are a result of their desire to withhold their military personnel from participating in domestic emergencies.<sup>48</sup>

The general purpose of the PCA—limiting the powers of federal government in using federal military personnel to enforce the state laws--is embedded throughout the U.S. Constitution; it appears as relevant today as it did two centuries ago. Therefore, the issue is not whether the military can legally conduct border protection operations; rather the issue is to what extent should the military be implemented on the borders.

#### Department of Defense Domestic Doctrine

The *DOD Homeland Defense and Civil Support Joint Operating Concept* depicts the military's domestic responsibilities as overlapping mission sets that include: homeland security, homeland defense, civil support, and emergency preparedness.<sup>49</sup> DOD's *Strategy for Homeland Defense and Civil Support* document designates three

military roles in homeland defense: First, as the *lead* agency, DOD is responsible for defending the nation against external threats. Second, as an *enabling* agency, DOD is responsible for building and improving intergovernmental and private homeland security response capabilities. Finally, as a *support* agency, DOD conducts preparedness activities to assist civilian authorities in domestic emergencies.<sup>50</sup>

Ostensibly, there is no a direct link between military support of border operations and the current assignment of DOD's domestic role. However, individuals attempting to gain entry to the United States across its land borders to commit acts of terrorism or other forms of violence could be perceived as external threats to national security. In such cases, the current *National Security Strategy* sanctions the use of military resources to support civil authorities in the defense of the homeland.<sup>51</sup>

The GAO report *DOD Needs to Address Gaps in Homeland Defense and Civil Support Guidance* noted:

DOD has issued and updated several key pieces of doctrine, policy, and strategy for homeland defense and civil support, but it has not updated its primary strategy for Homeland Defense and Civil Support since it was initially issued in 2005 and does not have a process—similar to that for its joint publications and directives—to do so.<sup>52</sup>

This finding does not suggest that all domestic military doctrine in its current state is irrelevant; rather it implies DOD must continuously review and, as necessary, revise its homeland strategy to counter internal and external threats that challenge national security.

## Homeland Defense versus Homeland Security: What is the Difference?

### Homeland Defense

In 2002 the Bush administration defined *homeland defense* as “the military protection of U.S. territory, the domestic population and critical defense infrastructure against external threats and aggression.”<sup>53</sup> This broad description suggests that for any activity, strategy, or operation to be classified as homeland defense, the nation would have to employ its military to eliminate a national security threat originating outside of U.S. borders. The 1941 Japanese attack on Pearl Harbor is a clear example of an external threat to national security. However, determining whether a foreigner attempting to gain entry into the United States to carry out a violent act is considered an external threat is less obvious. In fact, a review of the *2010 National Security Strategy* and the *2011 National Military Strategy* reveals that neither document clearly defines what constitutes an external threat.

### Homeland Security

Since the 9/11 terrorist attacks, the U.S. Government has modified the definition of *homeland security* on several occasions.<sup>54</sup> The 2002 definition characterized homeland security as “a concerted national effort to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur.”<sup>55</sup> The 2007 definition was modified to “respond to and recover from incidents that do occur” and “protect the American people and our critical infrastructure.”<sup>56</sup> Finally, the 2010 *DHS Quadrennial Homeland Security Review Report* settled on this definition: “a concerted national effort to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards where American interests, aspirations, and way of life can thrive.”<sup>57</sup> This sequence suggests the

homeland security concept evolves as the nation faces various threats to its security. Conceivably, the meaning of homeland security varies from an individual's or organization's perspective. Nonetheless, it is incumbent upon the federal government to solidify the concept in order to synchronize policy and doctrine to achieve a desired end state.

The federal government draws a distinction between homeland security and homeland defense. Christopher Bellavita observes that:

Some people believe the divide creates problems. They suggest it is “a distinction without a difference” to differentiate homeland security (protecting against internal threats) and homeland defense (protecting against external threats), one that “impedes the unity of effort between” the Departments of Defense and Homeland Security.<sup>58</sup>

Security is defined as “the freedom from danger, fear, or anxiety,” whereas defense is defined as “the capability of resisting attack”.<sup>59</sup> Therefore it appears the distinction between the two terms is not strictly semantic. Rather, it affirms the federal government's bureaucratic attempt to differentiate between the activities of DOD and DHS in the protection of American sovereignty.

The current *National Security Strategy* does delineate between internal and external national security threats. Presumably, internal threats include incidents such as the 1995 bombing of the Murrah Federal Building Oklahoma City. However, its lack of specification of external threats leaves the definition and subsequent strategy used to combat these threats to the interpretation of those in charge of developing and implementing national security strategy.



## Analysis of Costs, Benefits, and Challenges of DoD Assuming a Larger Role in Border Protection Operations

Determining whether the military should assume a greater role in protecting U.S. land borders requires an analysis of costs, benefits, challenges, and risks. In 2011, GAO issued a report on the costs and benefits of DOD assuming a larger role in securing the southwest land border. Although this report focuses on the southwest border, it is relevant to general border security issues involving the military.

### Cost Analysis

Establishing estimates of costs to the federal government for the use of military resources in support of border protection operations is complex, in part because of the difficulty in ascertaining the factors to be considered in computing a “total cost.” For example, the cost of border operations carried out by federally funded National Guardsmen conducted from June 2006 to July 2008 and again from July 2010 to June 2011 was approximately \$1.35 billion.<sup>60</sup> Mobilizing reserve component personnel to active duty status comes at an additional expense to the federal government, whereas the compensation for using active duty personnel for this task is included in the annual military budget. Therefore, from a fiscal perspective, the use of National Guard and reserve component personnel for border operations would be more expensive than using active duty personnel.

### Challenges

#### Insufficient Dialogue between High-ranking DOD and DHS Officials

DOD officials have expressed concerns that the lack of a comprehensive southwest border security strategy hinders its ability to plan for a border security role.<sup>61</sup> However, DHS Secretary Janet Napolitano testified during a congressional hearing that

she was unaware of this DOD concern.<sup>62</sup> Her lack of awareness suggests an accompanying lack of dialogue between the two departments in regards to border security strategy. Nonetheless, the U.S. Border Patrol claims among its achievements “an expanded collaboration with other agencies.”<sup>63</sup> Secretary Napolitano’s testimony indicates that this collaboration has not extended to DOD, at least to a level useful to military leaders who are planning a border role for the military.

### DOD Constraints

DHS & CBP officials are concerned that DOD assistance is ad hoc in nature due to DOD operational requirements, whereas border security is a permanent and ongoing mission.<sup>64</sup> This concern suggests DHS officials cannot rely on uninterrupted DOD support. The U.S. military is currently involved in combat and contingency operations throughout the world. With manpower cuts expected in the near future while the military maintains a global posture, DOD appears to be unprepared to assume an additional core mission. Furthermore, DOD must address several issues in the matter of employing military resources in support of civilian authorities:<sup>65</sup>

- Legality: Is the requested support in compliance with applicable law?
- Readiness: What is the impact on the ability of the DOD to perform its primary mission?
- Lethality: Is there a potential use of lethal force by or against DOD forces?
- Risk: How will the safety of DOD forces be jeopardized?
- Cost: Who pays and what is the impact on the DOD budget?
- Appropriateness: Is it in the national interest for DOD to conduct the requested mission?

Collaboration between DOD, DHS, and the Department of Justice (DOJ) could produce a national strategy in which military support of law enforcement activities becomes a routine endeavor, rather than the recent on-again, off-again approach. Normalizing DOD’s border security role would not only minimize DOD constraints on

border security operations, but, more importantly, would align with President Obama's assertion that strengthening national capacity requires "improving the integration of skills and capabilities within our military and civilian institutions, so they complement each other and operate seamlessly."<sup>66</sup>

The feasibility of military support of border operations has been considered while the United States has been conducting two separate wars over an eight-year period. Since combat operations in Afghanistan are expected to conclude in 2014, readiness concerns may be alleviated. However, an expanded military footprint along the borders, coupled with pending federal budget cuts, could negatively impact our military's ability to respond to planned or unplanned operations globally. Therefore future plans to increase the role of DOD in border security or other domestic operations must consider the priorities set forth in the *National Security Strategy* and *National Military Strategy*.

#### Benefits & Military Capabilities Analysis

##### Benefits

A GAO report identified two major benefits of the military assuming a larger role in border protection operations: increased apprehensions and seizures, and greater deterrence of criminal activity along the southwest border.<sup>67</sup> These benefits represent a positive response to DHS reports that the southwest border remains vulnerable to illegal smuggling of humans and narcotics.<sup>68</sup> Clearly, DHS reports indicate that the CBP goal to "secure" American borders is far from being achieved.<sup>69</sup> Further, DOD support to border security implements a "whole-of-government approach" to increase apprehensions between ports of entry.<sup>70</sup> Accordingly, an expanded use of DOD resources provides a viable option to provide greater protection to U.S. land borders.

## Capabilities

Despite expected personnel cuts in the near future, DOD currently maintains approximately 2.5 million service members in uniform. According to Tussing, technology serves only to complement boots-on-the-border, it cannot replace them. Moreover, whether the focus is interdiction, deterrence, or prevention of illegal transit, only the physical presence of people will actually accomplish the desired function.<sup>71</sup> No other government organization has the human resources of DOD.

DOD maintains a domestic combatant command--U.S. Northern Command (NORTHCOM)—responsible for coordinating the implementation of military resources in support of homeland security and defense activities. Specifically, NORTHCOM's Joint Interagency Coordination Group maintains relationships with more than 60 federal and non-federal agencies.<sup>72</sup> NORTHCOM's command and control capabilities would assume an integral part in an expanded DOD role in domestic border protection operations.

Military resources currently utilized in support of numerous civil support missions include intelligence/surveillance/reconnaissance (ISR) equipment, communication assets, logistical assets, aviation assets, and personnel. During the conduct of two recent land wars, DOD has acquired the capability to operate in a joint and interagency environment under austere conditions--which is more than conducive to domestic land border operations. Historically, civil authorities have identified the necessity to utilize military resources along U.S. land borders. An expanded military role can only improve the capability of civil authorities to protect U.S. land borders.

## Conclusion

### National Security Dilemma

The United States remains vulnerable to national security threats across its land borders. This weakness must be addressed without obstructing the free flow of trade. This research project considers whether the current border security strategy utilizes national resources in the most effective manner to address national security threats at U.S. land borders.

### Findings

Contraband seizures by U.S. authorities represent a small fraction of the proceeds generated from illicit activities originating out of Mexico across the southwest border. Therefore, illicit border activity remains profitable and relatively unhindered. Likewise, the probability of apprehension remains low for individuals attempting to enter the United States illegally. In addition, the constant flow of illegal aliens across U.S. land borders could easily mask terrorist infiltration, especially because the permeable southwest border makes Mexico a favorable base of operations for terrorist organizations.

Despite its designation as the world's longest common border, the northern border is guarded by only a fraction of Border Patrol manpower nationwide. Additionally, apprehensions of individuals with suspected terrorist associations occur more frequently at the Canadian border than at the Mexican border. So the northern border is apparently more susceptible, and perhaps more desirable, to terrorist infiltration than its southern counterpart.

Anticipated benefits of an expanded DOD role along the southwest border include increased apprehensions and seizures along the border as well as greater

deterrence of border criminal activity. Potential challenges include availability of DOD personnel during a period of high operational tempo, DOD criteria to support civil authorities, and a lack of border security dialogue between high-ranking DOD and DHS officials.

Several conclusions can be drawn from this analysis: First, two of the most significant benefits of an expanded DOD role along the southwest border respond to established national security threats: the relatively porous borders that enable some individuals to illegally enter the United States undetected, and TCOs that utilize the land borders to enhance their profits. Second, the primary challenges found in this research emanate from feasibility rather than capability issues. This research project finds no evidence that DOD is incapable of assuming an expanded border security role. Determining whether an expanded military role will improve or hinder the current national security strategy requires a closer examination of the risks and rewards of this initiative.

DOD maintains various resources conducive to border security operations. In addition, since the Reagan administration, DOD has participated to varying extents in border security operations. DOD maintains a domestic command and control headquarters (NORTHCOM) which is currently engaged in homeland defense, homeland security, and civil support missions with various interagency and intergovernmental organizations throughout its area of responsibility.

Federal law establishes parameters that limit but do not prohibit federal military personnel from conducting law enforcement activities. Despite its controversial past, the PCA appears to remain relevant in today's security environment.

## Recommendations

DOD should assume an expanded role in the protection of U.S. land borders. An increased military role will foster the development of an in-depth border security strategy that addresses the greatest national security threats associated with its land borders. Use of a variable threat concept can ensure the majority of military resources are focused on the higher end of the threat scale.

A comprehensive southwestern border security strategy must be established with and through the cooperative efforts of DHS, DOJ, and DOD officials, as well as the highest level of the Mexican government. The collaborative nature of this proposed strategy will promote the most effective ends, ways, and means to counter national security threats while creating an enduring unity of effort. In addition, preventing terrorist infiltration from the northern border requires a continuous reassessment of resource allocations. Specifically, government officials should determine if the current 10 percent manpower allocation to the northern border is sufficient to address the recognized national security threat level at the northern border.

## Summary

The use of military resources to enforce laws has attracted its share of critics. However, an overarching concept is that the first priority of the military is to protect the country against all enemies, foreign and domestic. More than ever, the world is a volatile and unpredictable place. By extension, the nation needs strategic leaders who learn from the past, who adapt to current circumstances and who anticipate future threats.<sup>73</sup>

Tussing contends that a national border strategy “will require our government to decide from the depth and breadth of its capabilities which entities are best postured,

best equipped, and best trained to meet the trials that lay ahead.”<sup>74</sup> Will a greater utilization of the military prevent all national security threats from entering our borders? The answer lies somewhere between “probably not” and “no.” However, Americans must decide how vital the protection of our land borders is to the defense and security of the homeland. Perhaps the words of Sun Tzu should be used as the foundation of our border strategy: “It is a doctrine of war not to assume the enemy will not come, but rather to rely on one’s readiness to meet him; not to presume that he will not attack, but rather to make one’s self invincible.”<sup>75</sup>

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